

OFFICE OF
GENERAL COUNSEL
BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION

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In the Matter of:

DENVER METRO CHAMBER
OF COMMERCE; IRAQ AND
AFGHANISTAN VETERANS OF
AMERICA; KDKA-CBS (PITTSBURGH);
and WTTW-PBS (CHICAGO)

MUR NO. 7412

COMPLAINT

1. Pursuant to 52 U.S.C. § 30109(a)(1), the Libertarian National Committee ("LNC") files this complaint with the Federal Election Commission ("the Commission") against the Denver Metro Chamber of Commerce ("DMCC"), Iraq and Afghanistan Veterans of America ("IAVA"), KDKA-CBS (Pittsburgh) ("KDKA") and WTTW-PBS (Chicago) ("WTTW") (collectively, "Respondents"). The LNC alleges, based on information and belief, that each Respondent violated provisions of the Federal Election Campaign Act ("FECA" or "the Act") in connection with a candidate debate it staged. *See* 52 U.S.C. § 30101, *et seq.*

2. The FECA prohibits corporations from making contributions or expenditures in connection with any election. *See* 52 U.S.C. § 30118(a). It defines "contribution or expenditure" to include "any direct or indirect payment ... or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization." 52 U.S.C. § 30118(b)(2). As an exception to the general prohibition against corporate contributions and expenditures, the FECA permits corporations organized under 26 U.S.C. § 501(c)(3) or (c)(4) and broadcasters to stage candidate debates, provided that they comply with certain requirements. *See* 11 C.F.R. 110.13(c). In particular, staging organizations "must use pre-established objective criteria to determine which candidates may participate in a debate," and for

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general election debates, they "shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *Id.*

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3. As set forth below, each Respondent is a corporate entity or broadcaster that acted as a "staging organization" of a candidate debate. *See* 11 C.F.R. § 110.13(a). Each Respondent also violated the requirements set forth in 11 C.F.R. 110.13(c), either by failing to select candidates by means of pre-established, objective criteria, or by using nomination by a particular political party as the sole objective criterion, or both. Therefore, the Respondents are not exempt from the FECA's prohibition on corporate contributions and expenditures, and the debates that each one staged violated that prohibition. *See* 52 U.S.C. § 30118(a). Consequently, each payment or gift of money, and the value of any services, including the value of the air time allotted to each candidate participating in the Respondents' debates, and any other thing of value that each Respondent provided in connection with such debates, constitutes a violation of the Act. *See* 52 U.S.C. § 30118(a).

4. Prior to each Respondent's debate, the LNC provided the Respondent with notice of the requirements pertaining to staging organizations set forth in 11 C.F.R. 110.13(c), and the Respondent's apparent violation thereof. The LNC also requested that the Respondent take appropriate action to remedy the violation. Each Respondent declined to take any such action. The LNC thus files this complaint to seek redress for the violations set forth herein, which represent a larger pattern of unlawful conduct by staging organizations that routinely exclude Libertarian Party candidates, often with a flagrant disregard for the express terms of the Act and the Commission's regulations.

5. To the present date, in the 2016 and 2018 election cycles alone, no fewer than

seven different staging organizations have notified Libertarian candidates that they may not participate in a debate under circumstances that appear to be in clear violation of 11 C.F.R. 110.13(c). Upon receiving notice of the violation, however, three such entities took appropriate remedial action, by inviting the Libertarian candidate to participate. Respondents, by contrast, persisted in committing what appear to be knowing and willful violations of the Act.

6. The FECA provides that "if the Commission, upon receiving a complaint ... has reason to believe that a person has committed ... a violation of this Act ... the Commission shall ... notify the person of the alleged violation." 52 U.S.C. § 30109(a)(2). Further, "the Commission shall make an investigation of such alleged violation." *Id.* Based on the facts set forth below, therefore, the Commission is required to notify the Respondents of their violations alleged herein, and to conduct an investigation.

THE PARTIES

7. Complainant Libertarian National Committee is the governing body of the Libertarian Party, which is the third-largest political party in the United States. The Libertarian Party was founded in 1971 to promote the principles of liberty set forth in its Statement of Principles. The LNC's address is 1444 Duke Street, Alexandria, VA 22314-3403.

8. Respondent Denver Metro Chamber of Commerce is a non-profit corporation organized under 26 U.S.C. § 501(c)(6). It staged a debate for candidates for the United States Senate on October 17, 2016. Its address is 1445 Market Street, Denver, CO, 80202.

9. Respondent Iraq and Afghanistan Veterans of America is a non-profit corporation organized under 26 U.S.C. § 501(c)(3). It staged a debate for candidates for President of the United States on September 7, 2016. Its address is 85 Broad Street, 16th Floor, New York, NY,

10004.

10. Respondent KDKA-CBS (Pittsburgh) is a broadcaster. It staged a debate for candidates for U.S. House of Representatives on February 19, 2018. Its address is 420 Fort Duquesne Blvd #100, Pittsburgh, PA 15222.

11. Respondent WTTW-PBS (Chicago) is a broadcaster. It staged a debate for candidates for U.S. Senate on October 26, 2016. Its address is 5400 N. Saint Louis Avenue Chicago, Illinois 60625-4698.

FACTUAL ALLEGATIONS

KDKA-CBS (Pittsburgh)

12. On February 19, 2018, KDKA staged a debate for candidates for the U.S. House of Representatives in Pennsylvania's Congressional District 18. It invited Republican nominee Rick Saccone and Democratic nominee Conor Lamb to participate, but it did not invite any other candidates.

13. Prior to the debate, representatives of the Libertarian Party of Pennsylvania's nominee, Drew Gray Miller, repeatedly requested that KDKA identify the criteria it was using to determine whether it would invite a candidate to participate.¹ These requests were made to Anne Linaberger, KDKA's News Director, by telephone and email. Ms. Linaberger did not respond.

14. On February 18, 2018, at the request of Mr. Miller's campaign, the LNC also contacted KDKA, through counsel, to request that it identify its criteria for determining whether to invite a candidate to participate in its debate. Given the shortness of time, the LNC first attempted to contact Ms. Linaberger by telephone that morning, leaving her two separate messages stating its belief that KDKA's debate would violate the FECA and related regulations if

¹ Correspondence relating to KDKA is attached as Exhibit A.

KDKA declined to disclose its criteria. *See* Ex. A. In each message, the LNC requested that Ms. Linaberger respond as soon as possible.

15. Neither Ms. Linaberger nor anyone else from KDKA responded to the LNC's messages, or to the prior requests from Mr. Miller's representatives. The LNC therefore sent another written request to Ms. Linaberger, via email on the afternoon of February 18, 2018, requesting "guidance as to what Libertarian nominee Drew Gray Miller must do to participate" in KDKA's debate. *See* Ex. A. Noting that the debate was less than a day away, the LNC again requested a response "at your earliest convenience." *See* Ex. A.

16. On the morning of February 19, 2018, KDKA still had not responded to the multiple requests from Mr. Miller's campaign and the LNC that it disclose its criteria for determining whether to invite a candidate to participate in its debate. The LNC therefore made an additional "urgent request" via email, which asked that "KDKA state what Libertarian candidate Drew Gray Miller must do to qualify for participation in today's debate." *See* Ex. A.

17. Ms. Linaberger finally replied to that request, via an email that arrived at 10:26 AM on February 19, 2018. Her response, in its entirety, was as follows:

KDKA is committed to including candidates that have established their viability in recognized polls. Mr. Miller did not appear in the Monmouth University Poll, the one major poll taken in this race. Nor has Mr. Miller done any significant campaigning to date. Accordingly, Mr. Miller's campaign has not met these minimum requirements.

See Ex. A.

18. The LNC responded, through counsel, that KDKA's policy, as stated by Ms. Linaberger, appeared to confirm that KDKA's debate would violate the FECA and related regulations. *See* Ex. A. The LNC suggested that an appropriate remedy would be for KDKA to open its debates to other candidates, such as Mr. Miller. KDKA did not respond. It held its debate

later that day, with only the Republican and Democratic nominees participating.

WTTW-PBS Chicago

19. On October 26, 2016, WTTW staged a debate for candidates for U.S. Senate from Illinois. It invited Republican Party nominee Mark Kirk and Democratic Party nominee Tammy Duckworth to participate, but it did not invite any other candidates.

20. Prior to the debate, Krysta Walker, Ballot Access Director for the Libertarian Party of Illinois, sent several emails to WTTW Executive Producer Mary Field, which requested that WTTW invite the Libertarian Party of Illinois' nominee, Kent McMillen, to participate.² Ms. Walker also requested that WTTW identify the criteria it used to determine whether to invite a candidate to participate in its debates. Ms. Field did not respond to Ms. Walker's email requests. See Ex. B.

21. Eventually, Ms. Walker reached Ms. Field by telephone. According to Ms. Walker, Ms. Field stated that WTTW would not invite Libertarian Party candidates to participate in its debates because they are "not active or viable." See Ex. B. Ms. Walker objected to that characterization, noting that 53,000 registered voters had signed a petition to place Mr. McMillen on the ballot, that he had campaigned extensively all over the state for 18 months, and that the *Chicago Tribune* and *Chicago Sun Times* had both invited Libertarian candidates to participate in their debates. Ms. Walker repeatedly requested that Ms. Field state the specific criteria that WTTW used to determine that Libertarian candidates were not "active" or "viable", but Ms. Field declined to do so.

22. On October 25, 2016, at the request of Mr. McMillen's representatives, the LNC contacted WTTW, through counsel, to reiterate their prior requests that WTTW identify its

² Correspondence relating to WTTW is attached as Exhibit B.

criteria for candidate inclusion, and that WTTW invite Mr. McMillen to participate in its October 26, 2016 debate. The LNC reached Ms. Field by telephone. Ms. Field stated that WTTW had determined that it would not invite Mr. McMillen, but she declined the LNC's repeated requests that she identify what objective criteria WTTW used, if any, to make that determination. Finally, Ms. Field stated that a candidate would have to be "at about, I would say, 5 percent" in the polls. When asked when WTTW had established that criteria, Ms. Fields hung up.

23. Ms. Walker sent additional emails to Ms. Linaberger, requesting that WTTW include Mr. McMillen in its debate, but neither Ms. Linaberger nor anyone else from WTTW responded.

24. Republican Mark Kirk declined to participate in WTTW's October 26, 2016 debate. As a result, Ms. Duckworth participated in the "debate" alone, unopposed by any other candidate.

Denver Metro Chamber of Commerce

25. On October 17, 2016, DMCC staged a debate for candidates for U.S. Senate from Colorado. It invited Democratic nominee Michael Bennet and Republican nominee Darryl Glenn to participate, but did not invite any other candidate.

26. Representatives of Lily Tang Williams, the Libertarian Party of Colorado's nominee for that office, contacted DMCC prior to the debate and requested that it invite her to participate. In response, DMCC posted a message to its Facebook page stating that, due to considerations regarding "the format and timing" of the event, "only candidates from major political parties have been invited to attend." DMCC also advised Ms. Williams that it had made this decision without reference to any written rules or policy.

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27. On October 12, 2016, counsel for the LNC sent DMCC a letter, by email and certified mail, requesting that it invite Ms. Williams to participate in its candidate debate, and advising that its failure to do so appeared to be a violation of the FECA and related regulations.³ Dan Lewis, Executive Director of DMCC's affiliate, the Denver Metro Chamber Leadership Foundation, responded via email the next day. He stated, contrary to DMCC's prior representations, that DMCC had "a long-standing policy on participation in candidate forums and debates," pursuant to which "nominees of any party whose candidate received at least ten percent of the total gubernatorial votes cast in Colorado's last gubernatorial election are eligible to participate." *See* Ex. C.

28. On October 13, 2016, the LNC requested via email that DMCC provide it with a copy of the policy specifying the criteria upon which DMCC purported to rely. *See* Ex. C. Mr. Lewis sent an email stating that the policy was attached and that it had "guided our forums for many years." *See* Ex. C. The policy states that "the host organization will invite candidates to participate who represent all major political parties." *See* Ex. C. It further defines "major political party" as "any political party that at the last preceding gubernatorial election was represented on the official ballot ... and ... received at least ten percent of the total gubernatorial votes cast." *See* Ex. C.

29. On October 14, 2016, the LNC wrote to Mr. Lewis to advise that the policy he had provided appeared to be in violation of the FECA and related regulations on several grounds. For instance, the LNC stated:

the policy makes it impossible for any minor party candidate to qualify for inclusion, no matter how much support that minor party candidate may have, unless the minor party had a candidate in the preceding gubernatorial election who received at least ten percent

³ Correspondence relating to DMCC is attached as Exhibit C.

of the vote. So, for example, a newly formed political party, which did not exist at the time of the preceding gubernatorial election, is precluded from qualifying its candidates for inclusion in the Chamber's debates.

See Ex. A. Thus, the LNC explained, the "absolute bar" that the DMCC's policy imposes against candidates from new political parties, no matter how much support they may have, "appears to be a clear violation" of the FECA and related regulations. See Ex. A.

30. Mr. Lewis responded on October 14, 2016. He advised that DMCC "disagree[s] with [the LNC's] analysis and conclusion." DMCC declined to invite Ms. Williams to participate in its debate.

Iraq and Afghanistan Veterans of America

31. On September 7, 2016, IAVA staged a debate for candidates for President of the United States. The debate was broadcast live by NBC/MSNBC News. IAVA invited Republican nominee Donald Trump and Democratic nominee Hilary Clinton to participate, but did not invite any other candidates.

32. Prior to its debate, IAVA did not disclose what criteria, if any, it used to determine that it would only invite the nominees of the Republican and Democratic parties. Therefore, on August 29, 2016, Libertarian Party Chair Nicholas Sarwark wrote an open letter to IAVA, which requested "either an invite" to Libertarian Party presidential nominee Gary Johnson, "or an explanation" as to why IAVA had "chosen to exclude from your forum only one of the three candidates for President who will be on every American's ballot."⁴

33. IAVA did not respond directly to Mr. Sarwark's letter. However, on September 2, 2016, IAVA's founder and CEO, Paul Rieckhoff, posted a comment on Facebook addressing the displeasure many veterans had expressed over IAVA's refusal to invite Gov. Johnson to

⁴ Correspondence relating to IAVA is attached as Exhibit D.

participate in its debate. He stated that IAVA was "planning an event focused on [Gov. Johnson] sometime soon. But haters gonna hate. And trolls gonna troll." *See* Ex. D.

34. On September 2, 2016, the LNC sent Mr. Rieckhoff a letter, via email and certified mail, stating that IAVA's plan to stage a presidential debate without inviting any candidate other than the Republican and Democratic nominees appeared to violate the FECA and related regulations. *See* Ex. D. In particular, the LNC stated, the IAVA appeared to have "used nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *See* Ex. D. Additionally, the LNC stated, the IAVA appeared to have invited the Republican and Democratic nominees "without reference to any pre-existing criteria whatsoever."

35. Neither Mr. Rieckhoff nor IAVA responded to the LNC's September 2, 2016 letter. The same day, however, IAVA issued a press release claiming that it had issued "a formal invitation" to Gov. Johnson and Green Party presidential nominee Jill Stein "to participate in an IAVA Commander-in-Chief Forum event." *See* Ex. D. That "event" never took place.

36. IAVA held its presidential debate without inviting any candidate other than Republican Donald Trump and Democrat Hilary Clinton. According to IAVA, the debate garnered 46 million print impressions, 27 million television impressions, 122,000 Facebook live views and 70,000 Facebook likes. *See* Ex. D.

Debate Staging Organizations That Took Action to Comply With the FECA

37. Since the 2016 election cycle, at least three more organizations have staged debates for federal candidates under circumstances that initially appeared to violate the FECA and related regulations. In sharp contrast with Respondents, however, these entities took

appropriate remedial action upon notice of their apparent violations. Specifically:

- On July 11, 2017, upon receipt of a written request from the LNC, Americans for Prosperity-Utah invited Libertarian nominee Joseph Buchman to participate in its U.S. House candidate debate scheduled for that same day;⁵
- On April 28, 2017, upon receipt of a written request from the LNC, KTVQ-CBS (Billings) invited Libertarian nominee Mark Wicks to participate in its U.S. House candidate debate scheduled for the next day;⁶
- On September 6, 2016, upon receipt of a written request from the LNC, CLUB 20 invited Lily Tang Williams to participate in its U.S. Senate debate scheduled for September 10, 2016.⁷

38. The invitations issued by Americans for Prosperity-Utah, KTVQ-CBS and CLUB 20 demonstrate that staging organizations are capable of taking appropriate remedial action to avoid committing the violations that Respondents committed in connection with their debates. Further, they were able to do so even in cases where they had very little time prior to the dates – from less than 12 hours to only a few days. Respondents’ failure to take similar remedial action, despite receiving actual notice of their apparent violations, therefore suggests a knowing and deliberate intention to violate the FECA and related regulations.

VIOLATIONS

39. The FECA prohibits corporations from making contributions or expenditures “in connection with” any federal election. *See* 52 U.S.C. § 30118(a). It defines “contribution or expenditure” to include “any direct or indirect payment ... or gift of money, or any services, or

⁵ Correspondence relating to Americans for Prosperity-Utah is attached as Exhibit E.

⁶ Correspondence relating to KTVQ-CBS is attached as Exhibit F.

⁷ Correspondence relating to CLUB 20 is attached as Exhibit G.

anything of value ... to any candidate, campaign committee, or political party or organization.”

52 U.S.C. § 30118(b)(2).

40. The general prohibition described in paragraph 39 is subject to three exceptions, which permit corporate funds to be used 1) for internal corporate communications; 2) for nonpartisan voter registration and get-out-the-vote campaigns by a corporation directed to its stockholders and administrative personnel and their families; and 3) for a separate segregated fund used for political purposes. *See id.* § 30118(b)(2)(A)-(C). In addition, the FECA’s general definition section also addresses the term “expenditure,” defining it to include any payments made “for the purpose of influencing any election for Federal office,” *id.* § 30101(9)(A)(i), but not to include “nonpartisan activity designed to encourage individuals to vote or to register to vote.” *Id.* § 30101(9)(B)(ii).

41. Under the FEC’s regulatory scheme, corporate contributions and expenditures may be used to defray the costs of conducting candidate debates where those debates are held by nonpartisan organizations, as long as those organizations and the structure of the debate meet certain criteria. Two interrelated regulations produce this result. First, 11 C.F.R. § 110.13 establishes the requirements for debate staging organizations, debate structure and criteria for candidate selection necessary to qualify for exemption from the contribution and expenditure restrictions. Debate staging organizations must be either nonprofit organizations that “do not endorse, support, or oppose political candidates or parties,” or broadcasters that “are not owned or controlled by a political party, political committee or candidate.” 11 C.F.R. § 110.13(a). Next, the candidate debate must include at least two candidates and not be structured “to promote or advance one candidate over another.” 11 C.F.R. § 110.13(b). Finally, debate staging

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organizations are required to use "pre-established objective criteria to determine which candidates may participate in the debate ..." 11 C.F.R. 110.13(c). In particular, the Commission's regulations specify, "For general election debates, staging organizations shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *Id.*

42. The FEC has stated that "staging organizations must be able to show that their objective criteria were used to pick the participants, and that their criteria were not designed to result in the selection of certain pre-chosen participants." *See Buchanan v. Federal Election Commission*, 112 F. Supp.2d 58, 74 (D.D.C. 2000) (quoting FEC statement).

43. Based on the facts set forth herein, Respondents each violated the FECA's ban on corporate contributions and expenditures for four independent reasons: 1) they had no "pre-established objective criteria to determine which candidates may participate in the debate"; 2) they used "nomination by a particular political party as the sole objective criterion to determine to include" Republican and Democratic nominees only in their debates; 3) they structured whatever criteria they imposed "to result in the selection of certain pre-chosen participants;" that is, the criteria were designed so "that only the Democratic and Republican nominees could reasonably achieve it"; and 4) they kept their criteria secret and failed to disclose it, thus denying Libertarian nominees and other qualified candidates the opportunity to qualify for inclusion.

44. With the exception of DMCC, each Respondent is either a nonprofit organization or a broadcaster as defined by 11 C.F.R. § 110.13(a).⁸ The only permissible mechanism for

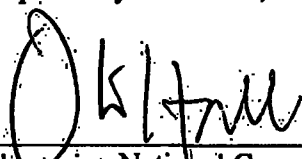
⁸ On information and belief, DMCC is a nonprofit organized under 26 U.S.C. § 501(c)(6), which is not included among the types of nonprofit organizations that is permitted to stage candidate debates. *See* 11 C.F.R. § 110.13(a)(1). It thus appears that DMCC is ineligible, as a matter of law, to stage candidate debates. *See id.* By staging its candidate debate, DMCC therefore violated FECA's ban on corporate contributions and expenditures. *See* 52 U.S.C. § 30118(a).

Respondents to stage debates involving federal candidates is to comply with the terms of 11 C.F.R. § 110.13(c). Because Respondents have not complied with that provision, they violated the FECA's ban on corporate contributions and expenditures. *See* 52 U.S.C. § 30118(a).

DEMAND FOR RELIEF

WHEREFORE, Complainant LNC respectfully requests that the Commission investigate the allegations contained in this Complaint, declare that the Respondents are in violation of the Federal Election Campaign Act and applicable FEC regulations, and impose sanctions commensurate with these violations.

Respectfully submitted,




Libertarian National Committee, by
Oliver B. Hall
Special Counsel
1444 Duke St.
Alexandria, VA 22314-3403
(617) 953-0161
oliverbhall@gmail.com

VERIFICATION


The complainants listed below hereby verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

**For Complainants Libertarian National Committee and
Oliver B. Hall**


Oliver B. Hall

Sworn to and subscribed before me this 13 day of June, 2018.


Notary Public

Angela H. Croson
Notary Public, District of Columbia
My Commission Expires March 31, 2019

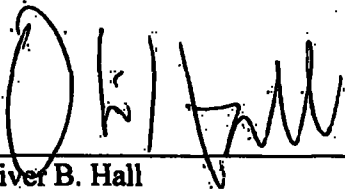


VERIFICATION

Complainant Libertarian National Committee hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Libertarian National Committee



Oliver B. Hall

Sworn to and subscribed before me this 6 day of June, 2018.



Notary Public

Notary Public

Angela H. Croson
Notary Public, District of Columbia
My Commission Expires March 31, 2019



EXHIBIT A

Communications with KDKA-CBS (Pittsburgh)

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----- Forwarded Message -----

Subject: Re: KDKA Debate

Date: Mon, 19 Feb 2018 12:21:15 -0500

From: Oliver Hall <oliverbhall@gmail.com>

To: Linaberger, Anne
<linaberger@kdka.com>

Dear Ms. Linaberger,

Your response below appears to confirm that KDKA'S sponsorship of this debate under the current circumstances is in violation of federal campaign finance law. As I suggested below, the remedy for this violation would be for KDKA to open the debate to other candidates, such as Mr. Miller. Will you please reconsider your decision and do so? If not, please be advised that the LNC intends to take appropriate legal action.

I would appreciate the opportunity to discuss this matter with you. I am available at your convenience at the number below.

Thank you,

Oliver Hall
Special Counsel
Libertarian National Committee
617-953-0161

From: Linaberger, Anne <linaberger@kdka.com>
Sent: Monday, February 19, 2018 10:26 AM
To: drew@drewgraymiller.com; oliverbhall@gmail.com
Subject: KDKA Debate

Mr. Miller & Mr. Oliver—

KDKA is committed to including candidates that have established their viability in recognized polls. Mr. Miller did not appear in the Monmouth University Poll, the one major poll taken in this race. Nor has Mr. Miller done any significant campaigning to date. Accordingly, Mr. Miller's campaign has not met these minimum requirements.



Anne Linaberger
KDKA-TV WPCW PITTSBURGH
News Director
o. 412 575.2314
kdka.com

"If you don't like something, change it. If you can't change it, change your attitude." Maya Angelou

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----- Forwarded Message -----

Subject: Re: KDKA's Candidate Debate

Date: Mon, 19 Feb 2018 08:04:02 -0500

From: Oliver Hall <oliverbhall@gmail.com>

To: linaberger@kdka.com, newsdesk@kdka.com, Nicholas Sarwark <chair@lp.org>, Josh Guckert

Good Morning,

I am writing again this morning with an urgent request that KDKA state what Libertarian candidate Drew Gray Miller must do to qualify for participation in today's debate.

We have made this request several times over the last 48 hours but KDKA has not responded. Please reply as soon as possible. You may reach me at this email or by phone at the number below.

Thank you,

Oliver B. Hall
Special Counsel
Libertarian National Committee
617-953-0161

----- Forwarded Message -----

Subject: KDKA's Candidate Debate

Date: Sun, 18 Feb 2018 16:11:10 -0500

From: Oliver Hall <oliverbhall@gmail.com>

To: linaberger@kdka.com, newsdesk@kdka.com, Nicholas Sarwark <chair@lp.org>, Josh Guckert

Dear Ms. Linaberger,

I am emailing you to follow up on the two previous phone messages I left for you regarding the Congressional candidate debate that KDKA is hosting tomorrow. KDKA's assignment editor, Aviva, tells me that she gave you my messages, so I understand that you are aware of our request for guidance as to what Libertarian nominee Drew Gray Miller must do to participate in the debate.

I am following up by email because we have not yet received a response, and the debate is less than a day away.

As I mentioned to Aviva, federal law requires that debate staging organizations such as KDKA "use pre-established objective criteria to determine which candidates may participate in a debate." 11 C.F.R. 110.13(c). If KDKA has adopted such criteria, please let us know what they are as soon as possible. If KDKA has not adopted such criteria, please be advised that we believe its sponsorship of tomorrow's debate is likely to constitute prohibited contributions to the invited candidates, or expenditures on their behalf, in violation of the Federal Election Campaign Act. See 52 U.S.C. § 30118(a).

Given the shortness of time before the scheduled debate, and the lack of notice to Mr. Miller regarding KDKA's criteria for inclusion, we believe the most expedient and appropriate resolution of this matter would be for KDKA simply to invite Mr. Miller to participate. This would ensure that KDKA's sponsorship of the debate does not give rise to prohibited contributions or expenditures. It would also serve Pennsylvania voters' interest in hearing a diversity of viewpoints.

I realize that it's Sunday, but I am requesting a response to this email at your earliest convenience. You may reach me at this email, or on my cell phone at 617-953-0161. Thank you for your attention to this matter.

Sincerely,

Oliver B. Hall
Special Counsel
Libertarian National Committee
617-953-0161

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EXHIBIT B

Communications with WTTW-PBS (Chicago)

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----- Forwarded Message -----

Subject: Re: WTTW Protest

Date: Tue, 25 Oct 2016 15:54:31 -0400

From: Oliver Hall <oliverbhall@gmail.com>

To: Krysta Walker

I just spoke to Mary.

It's obvious they don't use objective preexisting criteria. She insisted they do, but wouldn't say what it is.

I asked about five times. Finally, she said we'd have to be "at about, I would say, 5 percent" in the polls. I asked when that criteria was established, and she hung up on me.

From: Krysta Walker

Sent: Tuesday, October 25, 2016 3:37 PM

To: Oliver Hall

Subject: Re: WTTW Protest

She is ignoring my emails. Which is a pretty good strategy. But I'm willing to send another. They had a Senate debate on the 3rd. They have another on the 26th (tomorrow) and only one of the two major party candidates is showing. It makes no sense not to include Kent. Obviously there is room.

From: Krysta Walker

Sent: Tuesday, October 25, 2016 2:51 PM

To: Oliver Hall

Subject: Re: WTTW Protest

Absolutely.

The executive producer we've spoken to is Mary Field. She has spoken to me regarding Claire Ball, our Comptroller candidate, over the phone twice (she called me once after the PBS Ombudsman contacted them on our behalf, and I called her initially) but not responded to my emails. She has told us and the Green Party our candidates are not going to be included because it is their opinion the campaigns are "not active or viable". I responded with a full list of campaign events that have happened in the last 18 months all over the state, and the fact that 53,000 people signed our petition to get Claire and Kent on the ballot, and that Claire was included in both the Chicago Tribune and Chicago Sun Times debates. After numerous requests she has not given concrete benchmarks for which to make their assessment. She did vaguely reference polling data during our first call, but did not give a percentage at which they'd need to

poll to be included. I asked repeatedly if there was a space issue, she did not indicate that there was. The Comptroller debate is tonight at 7pm central time. I was just informed they've also decided to not include Kent McMillen, our U.S. senate candidate.

The contact there again, is Mary Field. And their number is (773) 583-5000

Tonight's Comptroller Debate

2 messages

Krysta Walker

> Tue, Oct 25, 2016 at 12:56 PM

To: mfield@wttw.com

Hi Mary,

I have not received any response to my last two emails regarding our candidate, Claire Ball's participation in the comptroller debate. At this point, it is our opinion that WTTW PBS Chicago may be in violation of statutes governing debate staging organizations. Claire is on stand by in case you change your mind, but if she and Kent are unlawfully excluded from your debates we plan to seek redress. Libertarian National Party legal council, Oliver Hall, told me he has spoken to you regarding this issue. I hope you'll consider a last minute addition to the debate. It shouldn't take much on your end, and we are more than willing to be there.

Together

for liberty and peace,

Krysta Walker, Ballot Access Director

Libertarian Party of Illinois

5412409313

Krysta Walker

Tue, Oct 25, 2016 at 12:59 PM

To: mfield@wttw.com

Mary,

On a related note, I believe tomorrow you also have a candidate forum for U.S. Senate in which only one major party candidate has accepted an invitation to come. Clearly since you're holding a seat for Kirk there is room for Kent McMillen, the Libertarian candidate. How is it better for the public to watch a forum with only one candidate? Kent was already excluded from your initial debate, and including him in the forum would be a great way to make that right.

Best regards,

Krysta Walker, Ballot Access Director

Libertarian Party of Illinois

5412409313

Comptroller Debate

Krysta Walker

Wed, Oct 12, 2016 at 12:44 PM

To: mfield@wttw.com

Mary,

I hadn't yet received a response from the email I sent last week. I hope it was received. I do appreciate you taking the time to speak with me on the phone a couple times about this issue, and saying that we could speak about this more this week.

I just wanted to clarify that as of today Ms Ball will not be included in the WTTW PBS debate, and that the criteria being used to determine who will be included is the producers' assessment of the viability of a candidate's campaign. You had said you wanted to provide the best information to your viewers, and I understand that. She was included in both the Tribune and SunTimes debates, and there does not appear to be an issue for space or time that you have stated. This is why I'm still hopeful that you will include Claire, who is the only candidate qualified to answer questions about accounting: the job of the state Comptroller. Is there any publication or document you can point me to that spells out the requirements for participation, specifically? When we spoke initially you stated that your criteria were whether or not a candidate had an active campaign and support base. My email last week included a full list of events all over the state that have been held for and attended by Ms Ball for her campaign. It is active, and has statewide support of thousands of voters, including the 53,000 who signed her petition to secure her spot on the ballot back in May.

I know by now we understand each other's position and view on Claire being included. I appreciate you taking the time to reply to me, and if you need to pass me on to someone else on this issue I completely understand.

Best regards,
Krys Walker, Ballot Access Director
Libertarian Party of Illinois
5412409313
Together
for liberty and peace,
Krys Walker, Ballot Access Director
Libertarian Party of Illinois
5412409313

Candidate Kept from Debate

2 messages

Krysta Walker

To: ombudsman@pbs.org

Bcc: NatureDevil Lambrecht

Thu, Oct 6, 2016 at 11:45 AM

Michael,

Thank you for taking a moment to speak with me on the phone today. Libertarian

comptroller candidate, Claire Ball, is not being allowed to participate in WTTW Chicago's Comptroller debate. The reason I was given was that Claire's campaign was "not viable". I was told this was based on a poll that occurred before Libertarians in the state of Illinois were even allowed to begin petitioning for ballot access, along with apparently just the opinion of the producers. Below is a summary of Claire's campaign so far. As you will see she has an active campaign with many thousands of supporters statewide. It should not matter if she is as well funded or politically connected as the other candidates. She is an experienced accountant holding both her bachelor and masters degrees in accounting, ten years experience, and she has passed her CPA. She is more qualified to answer accounting questions than either her Republican or Democrat opponents. This simple reason is why both the Tribune and SunTimes included her in their debates.

Thank you so much for your time and assistance.

Best regards,

Krys Walker, Ballot Access Director
Libertarian Party of Illinois
5412409313



10047473801

EXHIBIT C

Communications with Denver Metro Area Chamber of Commerce



2008037444001

----- Forwarded Message -----

Subject: RE: Invitation Request for U.S. Senate Candidate Forum

Date: Fri, 14 Oct 2016 18:38:52 +0000

From: Lewis, Dan <dan.lewis@denverleadership.org>

To: Oliver Hall <oliverbhall@gmail.com>

Mr. Hall,

We disagree with your analysis and conclusion. Mr. Williams does not meet our requirements for participation.

Regards,

Dan Lewis

From: Oliver Hall]
Sent: Friday, October 14, 2016 11:27 AM
To: Lewis, Dan <dan.lewis@denverleadership.org>
Subject: Re: Invitation Request for U.S. Senate Candidate Forum

Hello Dan,

Thanks for sending the Denver Metro Chamber of Commerce's policy regarding participation in candidate debates.

Upon review of the policy, it appears that it does in fact violate the regulations cited in our letter, as well as the reasonableness requirement that you cite from *Buchanan v. Fed. Election Comm'n*, 112 F. Supp. 2d 58, 74 (D.D.C. 2000).

The policy explicitly authorizes the invitation of the major party candidates, solely by virtue of their status as major party nominees. More problematic, however, is that the policy makes it impossible for any independent candidate to qualify for inclusion, no matter how much support that independent candidate may have. Similarly, the policy makes it impossible for any minor party candidate to qualify for inclusion, no matter how much support that minor party candidate may have, unless the minor party had a candidate in the preceding gubernatorial election who

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received at least ten percent of the vote. So, for example, a newly formed political party, which did not exist at the time of the preceding gubernatorial election, is precluded from qualifying its candidates for inclusion in the Chamber's debates.

The absolute bar that the Chamber's policy imposes upon the participation of independent candidates and candidates from new political parties appears to be a clear violation of the regulations cited in our letter, as well as the reasonableness requirement in *Buchanan*.

As stated in our letter, we believe the simplest and best way to resolve this matter is for the Chamber to invite Ms. Williams to participate in the debate scheduled for October 17th. We therefore reiterate our request that the Chamber do so. Given that the debate is to be held on Monday, would you please respond to this request by the end of the day today?

I'm available to discuss at your convenience if you'd like to give me a call.

Thank you,

Oliver B. Hall
Special Counsel
Libertarian National Committee
617-953-0161

From: Lewis, Dan

Sent: Thursday, October 13, 2016 6:27 PM

To: Oliver Hall

Subject: RE: Invitation Request for U.S. Senate Candidate Forum

Hi Oliver,

Attached please find the policy that our organizations follow. This was the policy before any of the current staff came on board— and it's guided our forums for many years.

Thank you,

Dan

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4003744091

160474718001

From: Oliver Hall [<mailto:oliverbhall@gmail.com>]
Sent: Thursday, October 13, 2016 11:53 AM
To: Lewis, Dan <dan.lewis@denverleadership.org>
Subject: Re: Invitation Request for U.S. Senate Candidate Forum

Mr. Lewis,

Thank you for your reply.

Please send me a copy of the policy that specifies the criterion that you reference below.

As you may know, we have previously requested a copy of this policy, and were informed that it did not exist. Therefore, could you please state when the policy was implemented, as well?

Thank you for your attention to this matter.

Regards,

Oliver B. Hall
Special Counsel
Libertarian National Committee
617-953-0161

From: Lewis, Dan
Sent: Thursday, October 13, 2016 1:47 PM
To: oliverbhall@gmail.com
Subject: RE: Invitation Request for U.S. Senate Candidate Forum

Mr. Hall,

We are writing in response to your e-mail and letter of October 12, 2016. Contrary to the assertions in your letter, both the Denver Metro Chamber of Commerce and its sister organization, the Denver Metro Chamber Leadership Foundation, have a long-standing policy on participation in candidate forums and debates. Under that policy, nominees of any party whose candidate received at least ten percent of the total gubernatorial votes

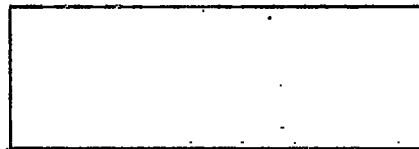
cast in Colorado's last gubernatorial election are eligible to participate.

This criterion is objective, free of content bias, and not geared to the selection of certain pre-chosen participants. Accordingly, it complies with applicable federal regulations. Moreover, it complies with the reasonableness requirement suggested in *Buchanan v. Fed. Election Comm'n*, 112 F. Supp. 2d 58, 74 (D.D.C. 2000). Indeed, as the *Buchanan* court noted, a criterion that permits the automatic inclusion of any candidate whose party met a particular support threshold in the last election (in that case, the 5% threshold for federal funding) would likely satisfy the "objective selection criterion" requirement of the applicable regulation. *Id.* at 73.

As the Libertarian nominee for Colorado governor received less than two percent of the vote in the 2014 election, its nominee is not eligible to participate in this year's forum.



Kelly Jean Brough
President and CEO
Denver Metro Chamber of Commerce
Foundation



Dan Lewis
Executive Director
Denver Metro Chamber Leadership

10047473809



October 12, 2016

By Email and Certified Mail

Jennifer Jones
Director, Public Affairs
Denver Metro Chamber of Commerce
1445 Market Street
Denver, CO 80202

Dear Ms. Jones,

I am writing on behalf of the Libertarian National Committee ("LNC"), to request that you issue an invitation to Lily Tang Williams, the Libertarian Party of Colorado's 2016 nominee for United States Senate, to participate in the U.S. Senate Candidate Forum that the Denver Metro Chamber of Commerce is sponsoring on October 17, 2016. We believe that the Chamber's failure to do so will result in violations of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101 et seq., and related regulations.

As a debate staging organization, the Chamber is required to "use pre-established objective criteria to determine which candidates may participate in a debate." 11. C.F.R. 110.13(c). Further, the Chamber "shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *Id.* Yet the Chamber appears to have done just that. Specifically, in response to requests that Ms. Williams be included in the forum, the Chamber wrote on its Facebook page that, due to considerations regarding "the format and timing" of the event, "only candidates from major political parties have been invited to attend." Additionally, you advised Ms. Williams that the Chamber made this decision without reference to any written rules or policy. The Chamber thus appears to be in clear violation of the regulations governing debate staging organizations. It is inviting the major party candidates to participate in its forum solely by virtue of their status as major party nominees, and its is declining to allow other candidates to participate based on criteria that are neither pre-established nor objective. As a result, the Chamber's sponsorship of its forum is likely to constitute prohibited contributions to the Republican and Democratic candidates, or expenditures on their behalf, in violation of the FECA. See 52 U.S.C. § 30118(a).

The LNC recognizes that the Chamber may have been unaware of the legal requirements that the FECA and related federal regulations impose upon debate staging organizations. Now that you have notice of the Chamber's legal obligations, however, we request that you reconsider your decision to exclude Ms. Williams from the October 17th debate. As you may know, the Libertarian Party is one of only three political parties in the United States that will have a Presidential candidate on all 50 state ballots and the District of Columbia. It is also the only political party in the country that has had an increase in partisan voter registration since October of 2012; all other political parties in the country have had falling voter registration during the same period. Ms. Williams has a national profile and has headlined major conferences like

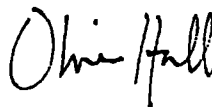
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Freedom Fest in Las Vegas. She participated in the debate that CLUB 20 sponsored in Grand Junction in September, and she deserves to participate in the Chamber's forum.

Accordingly, the LNC requests that the Chamber invite Ms. Williams to participate in the forum it is sponsoring on October 17, 2016. Given the shortness of time, we request the courtesy of a reply at your earliest convenience. You may reach me directly at 617-953-0161 or oliverbhall@gmail.com.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Oliver B. Hall".

Oliver B. Hall
Special Counsel

16044473808

EXHIBIT D

Communications with Iraq and Afghanistan Veterans of America



September 2, 2016

By Email and Certified Mail

Paul Rieckhoff
Founder and CEO
Iraq and Afghanistan Veterans of America
114 West 41st Street, 19th Floor
New York, NY 10036

Dear Mr. Rieckhoff,

I am writing on behalf of the Libertarian National Committee ("LNC"), to request that you issue an invitation to Gary Johnson, the Libertarian Party's 2016 nominee for president, to participate in the Commander-in-Chief Forum that Iraq and Afghanistan Veterans of America ("IAVA") is sponsoring on September 7, 2016. We believe that IAVA's failure to do so will result in violations of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101 et seq., and related regulations.

As a debate staging organization, IAVA is required to "use pre-established objective criteria to determine which candidates may participate in a debate." 11. C.F.R. 110.13(c). Further, IAVA "shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *Id.* Yet IAVA appears to have done just that, by inviting only Democratic nominee Hillary Clinton and Republican nominee Donald Trump to participate in its forum, without reference to any pre-existing criteria whatsoever. As a result, IAVA's sponsorship of its Commander-in-Chief Forum will likely result in prohibited contributions to the major party nominees or expenditures on their behalf, in violation of the FECA. *See* 52 U.S.C. § 30118(a).

The LNC recognizes the worthy mission that IAVA pursues on behalf of our nation's veterans, and that your organization may have been unaware of the legal requirements that the FECA and related federal regulations impose upon debate staging organizations. We are also aware that you announced, on August 31, 2016, that IAVA has invited Governor Johnson "to participate in a separate Commander-in-Chief Forum event." Such an invitation, however, does not remedy the apparent violations of federal campaign finance law that will occur if IAVA's Commander-in-Chief Forum takes place in its current format, with only the major party nominees invited to attend, and without reference to any pre-established objective criteria.

Accordingly, the LNC requests that IAVA invite Governor Johnson to participate in the Commander-in-Chief Forum scheduled for September 7, 2016. As you have recognized, Governor Johnson is qualified to appear on the ballot in all 50 states and the District of Columbia, and he enjoys substantial support among our nation's veterans. Given the shortness of time, we request the courtesy of a reply at your earliest convenience.

Thank you for your attention to this matter.

Sincerely,

Oliver B. Hall
Special Counsel

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IAVA Statement on Call with Libertarian Presidential Candidate Gary Johnson

Following an Invitation to Johnson, Phone Call with CEO Paul Rieckhoff Further Expands IAVA Presidential Campaign Conversation on Veterans Issues

New York (September 2, 2016) – Yesterday, Iraq and Afghanistan Veterans of America (IAVA) Founder and Chief Executive Officer Paul Rieckhoff spoke by phone with Libertarian Party candidate for President Gary Johnson about a range of veterans issues to include IAVA's upcoming Commander-in-Chief Forum events. The two discussed the concerns of IAVA members, IAVA's Policy Agenda priorities and how the Johnson campaign can best serve the veteran community at large. The call followed a formal invitation from IAVA to Governor Johnson and, Green Party Candidate, Dr. Jill Stein inviting them to participate in an IAVA Commander-in-Chief Forum event.

"It was an excellent, productive call with Governor Johnson. We appreciate him making time to focus on the issues facing IAVA members. He thanked IAVA for the invitation to a Commander-in-Chief event and for our continued work on behalf of veterans. We talked through a number of options that his campaign is considering and he was extremely appreciative of the opportunity," said Paul Rieckhoff. "We are a non-partisan organization and IAVA members are extremely diverse. IAVA has always been committed to the most robust public conversation around veterans issues and we are eager to engage Gov. Johnson and all candidates further in the days to come. We encourage all Americans to stay tuned to IAVA.org for further updates in the days ahead."

The Johnson campaign elaborated in an interview with the Army Times published today and linked here.

"Johnson campaign communications director Joe Hunter said the campaign does not see the process so far as a slight to Johnson, who also has not been invited to the nationally televised presidential debates scheduled for the final weeks of the race."

"Gov. Johnson applauded the work of IAVA and other leading (veterans groups) in America who are giving voice to the nation's veterans, and reiterated his desire that supporters of his candidacy show respect and similar appreciation for that good work," Hunter said."

For more information on upcoming historic IAVA Commander-in-Chief Forum events at CommanderInChiefForum.org.

Note to media: Email press@iava.org or call 212-982-9699 to speak with IAVA CEO and Founder Paul Rieckhoff or IAVA leadership.

Iraq and Afghanistan Veterans of America (www.IAVA.org) is the leading post-9/11 veteran empowerment organization (VEO) with the most diverse and rapidly growing membership in America. As a non-profit founded in 2004, IAVA's mission is to connect, unite and empower post-9/11 veterans. Celebrating its 12th year anniversary, IAVA has connected more than 1.2 million veterans with resources and community, and provided more than 7,300 veterans with personalized support from IAVA's Master's level social workers.

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Open Letter to IAVA from LNC Chair

By [Staff](#) on August 29, 2016 in [Features](#), [News](#)

For Immediate Release Monday, August 29, 2016

Dear Iraq and Afghanistan Veterans of America,

Perhaps you can provide details about why you've chosen to exclude from your forum only one of the three candidates for President who will be on every American's ballot. I didn't see those details in any of your announcements.

The Libertarian Party candidate, Gary Johnson, is very popular with veterans and it is shameful for your organization to seemingly randomly deny the veterans you purport to serve the opportunity to hear from all of their choices for Commander-in-Chief.

I look forward to either an invite or an explanation from your organization. I believe a great many Iraq and Afghanistan Veterans are looking for the same.

Yours in liberty,

Nicholas Sarwark
Chair, Libertarian National Committee

16004473812

EXHIBIT E

Communications with Americans for Prosperity-Utah

19944472813

----- Forwarded Message -----

Subject: Fwd: Debate

Date: Wed, 12 Jul 2017 03:07:01 -0600

From: Joseph Buchman

To: oliverbhall@gmail.com

CC: Nicholas Sarwark <
<bob.johnston@lp.org>

>
>, Bob Johnston

Mr. Hall,

I am writing to express my profound and abiding gratitude for the letter which you sent to Americans For Prosperity - Utah some 19 or so hours ago. Your counsel was apparently accepted by AFT more or less immediately as I received an invitation to last night's debate at 9:45AM Mountain Time. As you know two debates were announced simultaneously some weeks ago; the second scheduled for 28 July apparently using the same criteria for inclusion.

I am hopeful based, in part, on my showing earlier tonight that an invitation to the second debate will be forthcoming.

Meanwhile I thought you, Nick and Bob might be interested in some of the media coverage from earlier this evening.

With gratitude,

joe

Joseph G. Buchman, PhD
Chair, Libertarian Party of Utah
Candidate, Utah's Third District

<http://www.getol.vote>

435 602 0798



July 11, 2017

By Email To: everton@afphq.org

Evelyn Everton
State Director
Americans for Prosperity – Utah

Dear Ms. Everton,

I am writing on behalf of the Libertarian National Committee (“LNC”), to request that you issue an invitation to Joseph G. Buchman, PhD, the Libertarian Party of Utah’s 2017 nominee for United States House of Representatives, to participate in the U.S. Senate Candidate Forum that the Denver Metro Chamber of Commerce is sponsoring on October 17, 2016. We believe that the Chamber’s failure to do so will result in violations of the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101 et seq., and related regulations.

As a debate staging organization, the Chamber is required to “use pre-established objective criteria to determine which candidates may participate in a debate.” 11. C.F.R. 110.13(c). Further, the Chamber “shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.” *Id.* Yet the Chamber appears to have done just that. Specifically, in response to requests that Ms. Williams be included in the forum, the Chamber wrote on its Facebook page that, due to considerations regarding “the format and timing” of the event, “only candidates from major political parties have been invited to attend.” Additionally, you advised Ms. Williams that the Chamber made this decision without reference to any written rules or policy. The Chamber thus appears to be in clear violation of the regulations governing debate staging organizations. It is inviting the major party candidates to participate in its forum solely by virtue of their status as major party nominees, and it is declining to allow other candidates to participate based on criteria that are neither pre-established nor objective. As a result, the Chamber’s sponsorship of its forum is likely to constitute prohibited contributions to the Republican and Democratic candidates, or expenditures on their behalf, in violation of the FECA. *See* 52 U.S.C. § 30118(a).

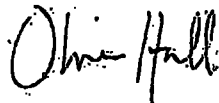
The LNC recognizes that the Chamber may have been unaware of the legal requirements that the FECA and related federal regulations impose upon debate staging organizations. Now that you have notice of the Chamber’s legal obligations, however, we request that you reconsider your decision to exclude Ms. Williams from the October 17th debate. As you may know, the Libertarian Party is one of only three political parties in the United States that will have a Presidential candidate on all 50 state ballots and the District of Columbia. It is also the only political party in the country that has had an increase in partisan voter registration since October of 2012; all other political parties in the country have had falling voter registration during the same period. Ms. Williams has a national profile and has headlined major conferences like Freedom Fest in Las Vegas. She participated in the debate that CLUB 20 sponsored in Grand Junction in September, and she deserves to participate in the Chamber’s forum.

10044473815

Accordingly, the LNC requests that the Chamber invite Ms. Williams to participate in the forum it is sponsoring on October 17, 2016. Given the shortness of time, we request the courtesy of a reply at your earliest convenience. You may reach me directly at 617-953-0161 or oliverbhall@gmail.com.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Oliver B. Hall".

Oliver B. Hall
Special Counsel

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EXHIBIT F

Communications with KTVQ-CBS (Billings)

19044474017

Mr. Wicks:

Thank you for your interest in the Montana Television Network Debate. We have received the new polling data from Emerson College and while your polling number is still below 5%, because of the large margin of error in the poll, we have decided to invite you to participate in the Debate. Please contact me this afternoon by 6 pm so that I can provide you with information about the logistics for tomorrow.

Regards,

Jon

Jon Stepanek

News Director

KTVQ Communications, LLC.

3203 3rd Ave North

Billings, MT 59101

Direct - (406) 869-2250

Cell - (



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+7dO3Tq1Ilo0mbMmIFp06YJcLKYxMfHE0c9O1R++

From: Mark Wicks
Sent: Wednesday, April 19, 2017 1:31 PM
To: Jon Stepanek <jstepanek@ktvq.com>
Subject: Congressional debate

It has come to my attention that a debate is planned between the Republican and Democratic candidates and I have not been invited. I am the Libertarian Candidate

and the only other candidate on the ballot. It goes against all our democratic principles to exclude a candidate from debate, especially in a field of three.

The media is supposed to be fair and impartial and my exclusion from the debate with a preference given to the other two candidates shows a bias towards those two parties.

Please reconsider and extend an invitation to me.

1007474/M08-10



April 27, 2017

BY EMAIL TO: jstepanek@ktvq.com

Jon Stepanek
News Director
KTVQ Communications, LLC
3203 3rd Ave North
Billings, MT 59101

Dear Mr. Stepanek,

Thank you for speaking with me yesterday, and for sending me the Montana Television Network Debate Criteria document. You state that KTVQ applied the criteria set forth therein to determine which candidates in Montana's May 25, 2017 special election it would invite to participate in the debate KTVQ is hosting on April 29, 2017. Based on that criteria, you state that KTVQ extended invitations to Democrat Rob Quist and Republican Greg Gianforte, but not to Libertarian Mark Wicks, who is the only other ballot-qualified candidate in the race.

I am writing on behalf of the Libertarian National Committee ("LNC"), to request that you reconsider your decision not to invite Mr. Wicks to participate in Saturday's debate. As a journalist, I'm sure you will appreciate the strong public interest in allowing Montana voters to hear from a diversity of perspectives as they decide who will be their representative in the United States Congress. Mr. Wicks, a Libertarian, has a perspective that differs from the Republican and Democratic candidates on many issues of public importance, and voters would benefit by hearing from him during Saturday's debate.

Furthermore, in the context of this special election, it appears that KTVQ's decision to invite Mr. Quist and Mr. Gianforte, but not Mr. Wicks, will result in violations of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101 et seq., and related regulations. As a debate staging organization, KTVQ is required to "use pre-established objective criteria to determine which candidates may participate in a debate." 11 C.F.R. 110.13(c). In the document that you sent, you state that KTVQ applies the following criteria:

Polling: Each candidate must establish over a 5% level of support from a high quality scientific non-partisan public poll. Polling vendors have included Mason-Dixon and Gallup.

In the event there is no poll data available the network will choose participants by race-specific criteria based on the network news directors judgment.

1004472821

In this case, you stated that no polling data was available, and that you therefore issued candidate invitations based on your own judgment as KTVQ's news director. Although you did not identify the basis for your decision to invite Mr. Quist and Mr. Gianforte, you stated that you decided not to invite Mr. Wicks because a different Libertarian candidate in a previous election showed less than 5 percent support in polls taken during that election, and because you concluded that press coverage of Mr. Wicks has been insufficient to justify his inclusion.

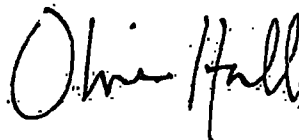
Mr. Stepanek, the reasons asserted for your decision appear to be precisely what the FECA prohibits. Although you characterize those reasons as "race-specific criteria", they are neither "pre-established" nor "objective", as the regulations require. See 11 C.F.R. 110.13(c). On the contrary, a network news director's "judgment" about whether a candidate qualifies for inclusion is, by definition, a subjective standard that could change at any time. As such, KTVQ's exclusion of Mr. Wicks on such grounds would be a violation of federal campaign finance law.

Moreover, just yesterday Montana Public Radio reported that Emerson College completed a poll last week, which shows that Mr. Wicks does in fact have support from 5 percent of Montana voters. See <http://mtpr.org/post/poll-shows-gianforte-double-digit-lead-us-house-race> (reporting that Emerson College polls are "generally respected"). Accordingly, if KTVQ fails to invite Mr. Wicks, in spite of this polling data, it would be acting contrary to its own stated criteria. This suggests that KTVQ is using "nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate," in violation of the express provisions of the FECA's enabling regulations. See 11 C.F.R. 110.13(c).

Based on the foregoing, the LNC believes that KTVQ's sponsorship of its debate is likely to constitute prohibited contributions to the Republican and Democratic candidates, or expenditures on their behalf, in violation of the FECA. See 52 U.S.C. § 30118(a). Under the circumstances of this special election, we believe that the proper course of conduct – and the only one that will not violate federal campaign finance law – is for KTVQ to invite all ballot-qualified candidates to participate in its debate. This would include not only Mr. Quist and Mr. Gianforte, of course, but also Mr. Wicks. We therefore request that you reconsider your decision, and issue an invitation to Mr. Wicks. In doing so, you will ensure that KTVQ complies with its obligations as a debate staging organization, and you will also be doing the voters of Montana a service.

Thank you for your attention to this matter. Given that the debate is only two days away, I request the courtesy of a response at your earliest convenience.

Sincerely,



Oliver B. Hall
Special Counsel
Libertarian National Committee

EXHIBIT G

Communications with CLUB 20

160444Z MAR 64

----- Forwarded Message -----

Subject: CLUB 20 Fall Conference and Candidate Debates

Date: Tue, 6 Sep 2016 19:02:50 +0000

From: Christian Reece <christian@club20.org>

To: Lily Tang Williams

Good Afternoon Candidate Williams,

With the new voter registration figures released today by the Secretary of State's office, the Libertarian Party now meets the current minimum threshold required to participate in the CLUB 20 U.S. Senate Debate. We will be emailing you the debate format and agenda later today. In the meantime, please let me know if you have any questions.

Thank you,

Christian Reece

Executive Director

CLUB 20

970-242-3264 office

christian@club20.org

www.club20.org



16044474823



September 3, 2016

By Email and Certified Mail

Christian Reece
Executive Director
CLUB 20
131 N 6th Street, Suite 320
Grand Junction, CO 81501

Dear Ms. Reece,

I am writing on behalf of the Libertarian National Committee ("LNC"), to request that you issue an invitation to Lily Tang Williams, the Libertarian Party of Colorado's 2016 nominee for United States Senate, to participate in the debate that CLUB 20 is sponsoring on September 10, 2016. We believe that CLUB 20's failure to do so will result in violations of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101 et seq., and related regulations.

As a debate staging organization, CLUB 20 is required to "use pre-established objective criteria to determine which candidates may participate in a debate." 11. C.F.R. 110.13(c). Further, CLUB 20 "shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate." *Id.* Yet CLUB 20's criteria, as set forth in the email that you sent to me on August 31, 2016, does just that. Specifically, you wrote that CLUB 20's policy is to "invite the Republican and Democrat candidates to participate in each candidate debate," and that CLUB 20 "will endeavor to allow" other candidates to participate pursuant to a different set of criteria. Despite my repeated requests, however, you have declined to provide a complete copy of the policy setting forth those criteria, or to indicate when it was implemented. CLUB 20 thus appears to be in clear violation of the regulations governing debate staging organizations. It is inviting the major party candidates to participate in its debate solely by virtue of their nomination by their particular parties, and its is declining to allow other candidates to participate pursuant to a policy it will not fully disclose or state when it was implemented. As a result, CLUB 20's sponsorship of its debate is likely to constitute prohibited contributions to the Republican and Democratic candidates, or expenditures on their behalf, in violation of the FECA. *See* 52 U.S.C. § 30118(a).

The LNC recognizes that CLUB 20 may have been unaware of the legal requirements that the FECA and related federal regulations impose upon debate staging organizations. Now that you have notice of CLUB 20's legal obligations, however, we request that you reconsider your decision to exclude Ms. Williams from the September 10th debate. As you may know, the Libertarian Party is one of only three political parties in the United States that will have a Presidential candidate on all 50 state ballots and the District of Columbia. It is also the only political party in the country that has had an increase in partisan voter registration since October of 2012; all other political parties in the country have had falling voter registration during the same period. In addition, Ms. Williams has a national profile and has headlined major conferences like Freedom Fest in Las Vegas. She deserves to participate in CLUB 20's debate.

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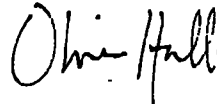
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You have indicated that CLUB 20's policy provides the Executive Committee "the right to make the subjective determination as to whom they will allow to participate in CLUB 20's candidate debates and to whom they will deny such access." Although this provision is also in clear violation of the requirement that CLUB 20 use "pre-established objective criteria," 11 C.F.R. 110.13(c), we believe this defect can be cured, in this instance, if CLUB 20 simply invites Ms. Williams to participate. By your own calculation, Ms. Williams falls just 0.023 percent short of the standard that CLUB 20 currently imposes on non-major party candidates. Surely your Executive Committee will agree that such a candidate ought to be included.

Accordingly, the LNC requests that CLUB 20 invite Ms. Williams to participate in the debate it is sponsoring on September 10, 2016. Given the shortness of time, we request the courtesy of a reply at your earliest convenience. You may reach me directly at 617-953-0161 or oliverbhall@gmail.com.

Thank you for your attention to this matter.

Sincerely,



Oliver B. Hall
Special Counsel